

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

**COOK BIOTECH INCORPORATED,)
and COOK MEDICAL)
INCORPORATED,)
Plaintiffs,)
vs.)
SYNOVIS LIFE TECHNOLOGIES,)
INC.,
Defendant.**

1:06-cv-1517-RLY-WTL

ENTRY OF DISMISSAL WITHOUT PREJUDICE

Defendant, Synovis Life Technologies, Inc. (“Synovis”), sought dismissal of this action based upon the pendency of a matter addressing identical patent issues which it filed earlier in the United States District Court of Minnesota in August of 2006. The original complaint in that case named Cook Group, Inc. as the defendant, but later was amended to include as defendants the two plaintiffs in this matter Cook Biotech Incorporated and Cook Medical Incorporated. Cook Biotech Incorporated and Cook Medical Incorporated are related to Cook Group, Inc., but are separate corporations.

On January 24, 2007, this court entered an order staying this matter until the Minnesota court decided a motion to dismiss filed in that matter by Cook Group, Inc. The Minnesota court has since denied that motion without prejudice and all the parties that

have something at stake in this patent battle are before the Minnesota court. The fact that the two plaintiffs here, Cook Biotech Incorporated and Cook Medical Incorporated, were not initially named in the Minnesota case seems of little import when they were promptly added and had actual knowledge of the claims being made. They have now answered the amended complaint in Minnesota, and unless the issue of jurisdiction is re-raised and considered again by the Minnesota court, this court is of the opinion that the venue of this dispute is now appropriately in Minnesota.

Accordingly, the court now GRANTS Synovis's Motion to Dismiss, or In the Alternative, Transfer or Stay (**Document # 22**) and dismisses this matter. The dismissal is without prejudice insofar as the merits have not been reached and should the Minnesota court find that its jurisdiction or the venue is wanting for any reason, transfer or a refiling will not be denied on the basis of this dismissal.

ALL OF WHICH IS ORDERED this 7th day of February 2007.

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